(3)

BEFORE THE M.P. STATE ADMINISTRATIVE TRIBUNAL BENCH RAIPUR

COPIES 5066/05

O.A. NO._____/2002

APPLICANT : 1. Ganesh Ram Patel
Asstt. Teacher
Primary School, Chirmuda
Block - Tamnar Distt. Raigarh

2. Banshidhar Patel
Asstt. Teacher
Middle Shcool,
Block - Tamnar Distt. Raigarh

VERSUS

NON-APPLICANT : 1. State of Chhattisgarh
through the Secretary
Department of Adivasi Vikas
D.K.S. Bhavan
Raipur (C.G.)

2. The Commissioner
Adivasi Vikas
Govt. of Chhattisgarh
D.K.S. Bhavan, Raipur (C.G.)

3. Asstt. Commissioner
Adivasi Vikas,
Raigarh

ORIGINAL APPLICATION UNDER SECTION 19 OF THE M.P. STATE ADMINISTRATIVE TRIBUNAL ACT, 1985

1. Particulars of the Applicant :

As detailed above in the cause title.

2. Particulars of the respondents :

As detailed above in the cause title.

3. Particulars of order against which original application is being made :

i) The instant petition has not been filed against any particular order of the non-applicants but has been filed against the act of the non-

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 4682 of 2005

Petitioner : Sriram Porte
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4681 of 2005

Petitioner : Digvijay Das Vaishnav
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4686 of 2005

Petitioner : Jhangilal Humne
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4680 of 2005

Petitioner : Kisun Ram Joshi
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4684 of 2005

Petitioner : Sant Lal Markam
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 4905 of 2005

Petitioners : Tosh Lal Patel & others
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5033 of 2005

Petitioner : Kamludas Tondre
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5051 of 2005

Petitioner : Latif Khan
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5053 of 2005

Petitioner : Smt. Subharda Dongre
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5059 of 2005

Petitioners : Madhav Murari Nayak & others
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5060 of 2005

Petitioners : Ganesh Ram Patel & others
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5062 of 2005

Petitioners : Subhash Gupta & others
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5113 of 2005

Petitioner : Jaiprakash Narayan Shrivastava
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5114 of 2005

Petitioner : Gitaram Mirche
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5133 of 2005

Petitioner : Gajanand Netam
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5134 of 2005

Petitioner : Krupendrakumar Meshram
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5074 of 2005

Petitioner : Jagdish Prasad Sharma
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5046 of 2005

Petitioner : Kriparam Pater
Versus
Respondents : State of Chhattisgarh & others

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W. P. (s) No. 5047 of 2005

Petitioner : Girdhari Lal Verma
Versus
Respondents : State of Chhattisgarh & others

W. P. (s) No. 5049 of 2005

Petitioner : Ramakant Bhuraya
Versus
Respondents : State of Chhattisgarh & others

And

W. P. (s) No. 5052 of 2005

Petitioner : Anand Singh Dhurwe
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Manish Sharma, Advocate for the Petitioners.
Shri Utkarsh Verma, Govt. Advocate for the State/respondents.

ORDER

(27th October, 2006)

1. The petitioners are working as Assistant Teachers in the government schools. In the course of their services as Assistant Teachers, the petitioners have obtained D. Ed. certificates on their own expenses before 1.3.1999.

2. Learned counsel for the petitioners submits that the 'Basic Training Institute' (B.T.I.) certificate has been renamed by the order of the State Government as 'Diploma in Education' (D.Ed.) certificate. The petitioners, who have obtained D.Ed. certificate prior to 1.3.1999 are entitled to the same relief as is granted to the candidates who had obtained B.T.I./B.Ed. certificates on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999.

3. Writ Petition (S) No.s 4682/2005, 4681/2005, 4686/2005, 4680/2005, 4684/2005, 4905/2005, 5033/2005, 5051/2005, 5053/2005, 5059/2005, 5060/2005, 5062/2005, 5113/2005, 5133/2005, 5114/2005, 5134/2005, 5052/2005, 5049/2005, 5047/2005, 5046/2005 and 5074/2005 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

4. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

5. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B. Ed. degree before 1.3.1999 is entitled to two advance increments.

6. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to

the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed./B.T.I. certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

7. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

8. Accordingly, in the event D. Ed. certificate holders are equal to B.T.I./B.Ed. certificate holders, they are entitled to the same relief in terms of the orders passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired D. Ed. Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

9. A copy of this order be placed on record in connected matters.

Sd/-
Satish K. Agnihotri
Judge

Bablu